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09/134,708

APPLICATION NUMBER	FILED DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/134,708	11/14/98	IKAWA	K H70338

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MMS 1/0603

EXAMINER

TSO, E

ART UNIT

PAPER NUMBER

2838

OY

DATE MAILED 06/03/99

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

Responsive to communication(s) filed on 09/14/98

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 34 - 37

is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_

Claim(s) 34 - 37

is/are allowed.

Claim(s) \_\_\_\_\_

Claim(s) \_\_\_\_\_

is/are rejected.

Claim(s) \_\_\_\_\_

Claim(s) \_\_\_\_\_

is/are objected to.

are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is/are approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) 08/1363,372

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of Reference Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the boxes needed descriptive labels. Correction is required.
2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Double Patenting***

3. Claims 34-37 are rejected under the judicially created doctrine of double patenting over the claims of U. S. Patent No. 5,834,922 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: the entire specification and its drawings.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application

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which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968).

See also MPEP § 804.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication should be directed to the Examiner at the below-listed number on Mon-Fri, 0630 to 1500, EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Peter S. Wong, can be reached on 703 305 3477. The fax numbers for this Technology Center 2800 are 703 305 3432 and 703 308 7722.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703 308 1782, Mon-Fri, 0830 to 1700, EST.

By:



EDWARD H TSO  
Primary Examiner  
703 308 2823 (Voice)  
703 305 7723 (Fax)